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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/806,941	05/21/2001	Ola Olofsson	TPP 31386	9543

7590 07/03/2003
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EXAMINER

TRAN A, PHI DIEU N

ART UNIT PAPER NUMBER

3637

DATE MAILED: 07/03/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/806,941

Applicant(s)

OLOFSSON ET AL.

Examiner

Phi D A

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 15 May 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) 8-10 and 15-19 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-7, 11-14, 20 and 21 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 4/10/03 has been entered.

2. **PRODUCT BY PROCESS CLAIM:**

“ The subject matter present in claim 6 is regarded as a product by process claim in which a product is introduced by the method in which it is made. It is the general practice of this office to examine the final product described regardless of the method provided by the applicant.”

This policy applies to the rejection of claim 6 below.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 1-7, 11-12, 20-21 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Applicant claims the board having “ a groove” in line 2 which sets forth the precise number of groove available on the board to be just one. However, claim 1 specifically requires more than one groove for the board for the attachment of the profile. If there is only “ a groove”, how is the tongue going to be attached to the board? The claims are thus indefinite.

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Also, the claims appear to be meant as “kit claims”. If that is the case, applicant needs to claim the relationship between the profile and the board accordingly. For example, claim 12 appears to claim the board and the profile as a combination, not as a kit claim.

The claims are examined as best understood as being drawn to a combination between the boards and the profile.

Claim Rejections - 35 USC § 102

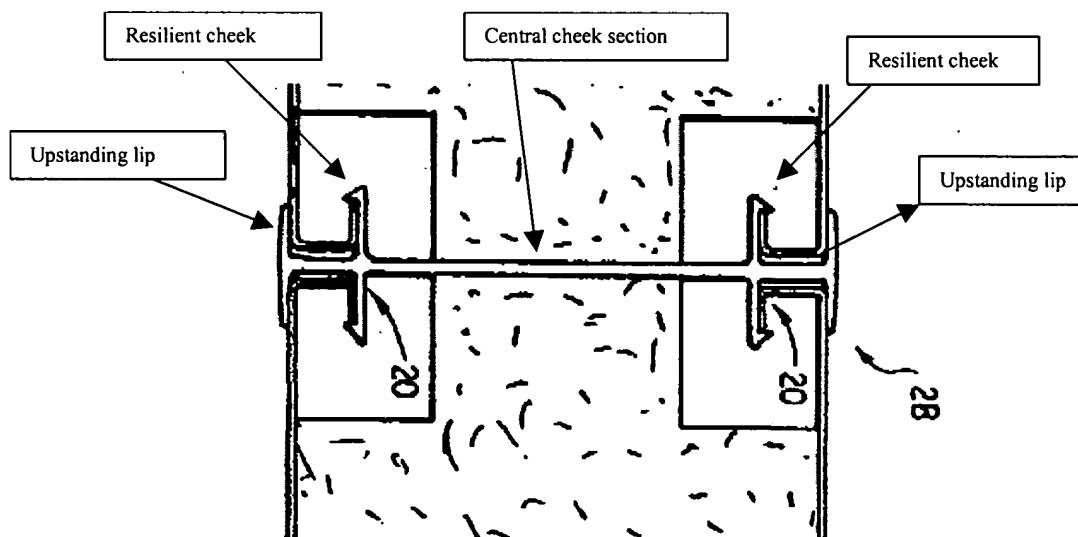
1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 13-14 are rejected under 35 U.S.C. 102(b) as being anticipated by Buzzella (5062250).

Buzzella (figure 4 below) shows a joining profile having two upstanding lips disposed at



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opposite ends of and perpendicular to a middle section such that the middle section terminates with the upstanding lips, a central cheek section, the central cheek section having first and second resilient cheeks, each of the first and second resilient cheeks having a tongue extending perpendicular to the respective cheek (see above and col 3 lines 33-35 for resiliency), the first and second resilient cheeks being separated by a space (the horizontal span), the space large enough to permit deflection of one of the first and second cheeks without contacting the other of the first and second resilient cheeks.

3. Claims 1-6, 11, 20 are rejected under 35 U.S.C. 102(b) as being anticipated by Buzzella (5062250).

Buzzella (figure 2) shows a vertically joined flooring material comprising floor boards (2) with a polygonal shaped upper surface, the floor boards being provided with edges, a groove (36, 38, figure 2), a lower side (10) and a decorative top surface (4, 5), the floor boards are intended to be vertically joined by means of separate joining profile (6), at least one edge being provided with one groove (40, 42), the groove being arranged parallel to its respective edge (44, 46) and that the joining profiles being provided with lips (22) arranged in pairs, the lips each are intended to be received by the groove (36, 38) of a respective floor board so that the adjacent floor boards with the grooves at the adjacent edges are guided and fixed horizontally by the lips of the joining profile, the lips being connected to each other by a middle section (18) of the joining profile and that the joining profile being provided with a central cheek section (20) which is comprised by a first and second independently resilient cheek (28 left and right) which cheeks are provided with one tongue (26, the part that projects upwardly) each whereby the tongues are intended to be received by one groove (40, 42) each so that the adjacent floor boards being

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guided in a vertical direction, the groove of the floor board being on the lower side (10) and is arranged at a distance from the closest edge less than half the width of the floor board, the floor boards are provided with a groove (40, 42) at the edges and the distance between each groove and the closest edge being about the same, the part of the floor board located between each edge and its respective groove being thinner than the maximum thickness of the floor board by means of a recess (the recess located between the distance outlined by 18 and 22) on the lower side, the distance between a center of one lip (22) to a center of the second lip of the joining profile is less than the distance between a center of one groove to a center of the second groove placed on each side of and closest to the edge of two adjacent floor boards, the joining profiles, the grooves (36, 38, the part located below the part 14) on the lower side being arranged at a distance from the closest edge less than one quarter of the width of the floor board, the upper surface of the floor boards having a shape selected from the group consisting of square, rhombus and rectangle.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1, 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Se8202375 (4169688) in view of Winegard et al (4766443).

Se8202375 (figure 1) shows a vertically joined flooring material comprising floor boards (1) with a polygonal shaped upper surface, the floor boards being provided with edges, a groove

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(8), a lower side(9) and a decorative top surface, the floor boards being intended to be vertically joined by means of separate joining profiles(3), the at least one edge being provided with one groove (7) which groove being arranged parallel to its respective edge and that the joining profiles being provided with lips (11) arranged in pairs, the lips each being intended to be received by the groove of a respective floor board so that the adjacent floor boards with the grooves at the adjacent edges are guided and fixed horizontally by the lips of the joining profile, the lips are connected by a middle section of the joining profile, first and second tongue (12) inserted into the groove (7) so that the floors are guided in a vertical direction located on a resilient cheek, the top surface of the floor board being flush with the top surface of an adjacent floor board, the lower side of the floor board being flush with both the lower surface of the adjacent floor board and the joining profile.

Se8202375 does not show the profile having a central cheek section comprising a first and a second independently resilient cheek which cheeks being provided with the tongues.

Winegard et al shows tongues (204) located on first and second cheeks (202, 203) to provide easy snap fit fastening of the profile to grooves.

It would have been obvious to one having ordinary skill in the art at the time of the invention to modify Se8202375 to show the profile having a central cheek section comprising a first and a second independently resilient cheek which cheeks being provided with the tongues because it would enable easy snap fit of the profile onto the grooves of the panels as taught by Winegard et al.

6. Claims 7, 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Buzzella (5062250).

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Buzzella shows all the claimed limitations except for the joining profiles being partially coated with glue or adhesive tape or the floorboards being partially coated with glue.

It would have been obvious to one having ordinary skill in the art at the time of the invention to modify Buzzella to show the joining profiles being partially coated with glue or adhesive tape or the floorboards being partially coated with glue because it would ensure the joining of the floorboards to the joining profiles.

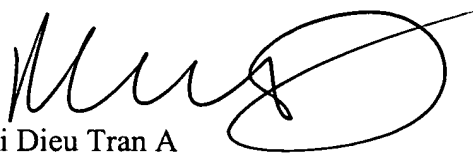
Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The prior art shows different panel attaching profiles.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Phi D A whose telephone number is 703-306-9136. The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lanna Mai can be reached on 703-308-2486. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9326 for regular communications and 703-872-9327 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1113.


Phi Dieu Tran A
June 28, 2003